

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Tinsley Real Estate,	)	Case No 6:23-cv-03537-DCC
	)	
Plaintiff,	)	
	)	
v.	)	<b>ORDER</b>
	)	
Lonnie Hudgens,	)	
	)	
Defendant.	)	
_____	)	

This matter is before the Court upon removal of this action from the Greenville County Summary Court. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), this matter was referred to United States Magistrate Judge Jacquelyn D. Austin for pre-trial proceedings and a Report and Recommendation (“Report”). On August 24, 2023, the Magistrate Judge issued a Report recommending that the Petition be denied and this action be remanded. ECF No. 10. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences for failing to do so. Plaintiff has not filed objections and the time to do so has lapsed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or

modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the Report’s recommendation. Accordingly, the Petition is **DENIED** and this action is **REMANDED** to the Greenville County Summary Court because this matter was improperly removed and the Court lacks subject matter jurisdiction over this action.<sup>1</sup>

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.  
United States District Judge

December 5, 2023  
Spartanburg, South Carolina

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<sup>1</sup> The Court notes that the Magistrate Judge further determined that dismissal was proper under Federal Rule of Civil Procedure 41(b) for failure to comply with an Order of this Court. The undersigned finds that remand rather than dismissal is appropriate in this case.